

(10-01-96)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

AGREEMENT OF AUTHORIZED LOAN SERVICING AGENT

1. Date of Agreement (Day, Month, Year)	2. Name of Authorized Loan Servicing Agent
--	--

NOTE: *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Cotton Loan Program Regulations at 7 CFR 1427. These regulations provide that a person or firm which desires to act as Agent of the Commodity Credit Corporation (CCC) for the purpose of rendering service to producers shall execute and file a written agreement with CCC. This agreement, Form CCC-912, is the required agreement and without it authority to act as an agent for CCC will not be granted. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001, 15 USC 714m; and 31 USC 3729, may be applicable to the information provided by the agent in this agreement. This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.*

*Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Office, OIRM, (OMB No. 0560-0074) Stop 7630, Washington, D.C. 20250. **RETURN COMPLETED FORMS TO THE DIRECTOR, PRICE SUPPORT DIVISION, USDA, FSA, STOP 0512, WASHINGTON, D.C. 20013.***

This agreement is entered into on the date indicated above by and between the Commodity Credit Corporation (hereafter referred to as "CCC") and the authorized loan servicing agent indicated above (hereafter referred to as "LSA").

It is the desire of CCC to permit, a person or firm to act as agent for CCC in performing certain administrative functions involved in making loans and loan deficiency payments (LDP's) available to cotton producers through Form A cotton loans in accordance with CCC's cotton loan and LDP program.

It is the desire of the person or firm named above to be approved by CCC to render service to producers under the CCC cotton loan and LDP program.

The CCC Cotton Loan Program Regulations provide that a person or firm which desires to act as Agent of CCC for these purposes shall execute and file a written agreement with CCC.

NOW, THEREFORE, in consideration of the premises and other considerations contained herein, the parties hereto agree as follows:

1. Subject to the other provisions of this Agreement, CCC hereby appoints the person or firm named above (hereinafter referred to as the "LSA") as a loan servicing agent for CCC for the purpose of performing certain services requisite to the making and servicing of CCC cotton loans and LDP's to eligible producers of eligible cotton in accordance with the cotton loan and LDP programs carried out by CCC. The LSA may act as CCC's agent for the following purposes:
 - (a) preparing and executing CCC cotton loan and LDP documents;

- (b) disbursing CCC cotton loan and LDP proceeds to individual producers;
- (c) receiving funds from the servicing agent bank (SAB) for the loan or LDP amount shown on the loan documents presented to the SAB;
- (d) preparing and executing documents for loan repayments;
- (e) collecting repayment funds from producers and transmitting such funds to CCC through the SAB;
- (f) handling documents involved in a claim for loss or damage of loan cotton by CCC or the producer;
- (g) transmitting documents and advising the SAB to render forfeited collateral to CCC; and
- (h) collecting data for reporting to CCC as may be prescribed by CCC.

2. In performing the services enumerated in section 1, the LSA shall:

- (a) perform such services in accordance with the procedures outlined in the applicable cotton program regulations and notices published in the Federal Register, applicable cotton handbooks and any amendments thereto, and notices or instructions issued by the Deputy Administrator, Farm Programs.
- (b) make and service CCC cotton loans and LDP's, as provided in section 1, only upon the presentation of warehouse receipts, unless otherwise provided by CCC, and class information by an eligible producer to the LSA;
- (c) become familiar with the cotton program for each crop of cotton as set forth in the applicable regulations, notices published in the Federal Register, Farm Service Agency (FSA) Cotton Loans Handbook, forms, and other instructions issued relating to the cotton loan and LDP program;
- (d) before executing documents for the purpose of making a CCC cotton loan or LDP to any producer, determine to the best of the LSA's knowledge and belief that the producer requesting a CCC cotton loan or LDP through the service provided by the LSA is an eligible cotton producer (as defined in the applicable commodity program regulations) and that the cotton is eligible cotton (as defined in the applicable commodity program regulations);
- (e) make a lien search prior to the disbursement of a CCC cotton loan and determine that the cotton to be pledged to CCC as security for a CCC cotton loan is free and clear of all liens except for those liens authorized by CCC in the warehouseman's storage agreement with CCC. If liens are discovered, other than the liens authorized in the warehouseman's storage agreement with CCC, a lien waiver is required from lienholders before the loan proceeds are disbursed;
- (f) advise each producer for whom the LSA executes loan or LDP documents that the producer should retain the producer's copy of the loan or LDP documents for the producer's records; and

- (g) before executing and presenting loan or LDP documents to the SAB, provide to the SAB the signatures of those persons who were approved by CCC to sign as the LSA.
3. Upon notification by the LSA that a producer may request loans and LDP's through the service provided by the LSA, CCC shall:
 - (a) determine whether the producer is an eligible producer;
 - (b) determine whether the producer has complied with the applicable loans and LDP eligibility requirements; and;
 - (c) make debt information from the FSA debt register available to the LSA.
 4. If the LSA is notified at any time that a producer requesting loans or LDP's through the service provided by the LSA is indebted to CCC or is otherwise subject to setoff by CCC in accordance with the setoff regulations of CCC, the LSA shall:
 - (a) contact CCC for the amount that is owed to CCC and is to be setoff from the loan or LDP proceeds prior to the disbursement of such proceeds; and
 - (b) prepare a check payable to CCC for the amount collected by setoff and forward the check to CCC as directed by CCC.
 5.
 - (a) The LSA may charge the producer requesting a CCC cotton loan or LDP through the service provided by the LSA a fee for preparation of loan or LDP documents and for servicing the loan, at a rate determined by CCC. Fees shall be deducted from the loan or LDP amount received by the LSA from CCC before distribution to the producer.
 - (b) Any fees charged by the LSA for making and servicing loans or LDP's shall be assessed at the same rate for each producer requesting a CCC cotton loan or LDP through the service provided by the LSA.
 6. If the LSA is designated by a producer to be the producer's agent for the purpose of executing loan or LDP documents in order to obtain LDP's or Form A cotton loans or repaying such loans on behalf of the producer, the LSA will not sign as a witness on a cotton Form A or applicable Cotton AA which the LSA has signed as either the agent for the producer or as agent for the producer's spouse.
 7. If the LSA is designated by a producer to be the producer's agent for the purpose of executing documents to obtain a Form A cotton loan, repaying such loans on behalf of the producer, marketing the producer's cotton, or obtaining LDP, the LSA shall:
 - (a) disclose to CCC all facts which the LSA knows or should know would reasonably affect the judgment of CCC in permitting the LSA to act as agent for both CCC and the producer;

- (b) include the following language (or equivalent language approved by CCC) in any agency agreement entered into between the LSA and a producer:

"[The producer] hereby acknowledges that [the LSA] is an agent of the Commodity Credit Corporation for the purpose of performing certain services requisite to the making and servicing of Commodity Credit Corporation cotton loans and LDP's to eligible producers of eligible cotton and agrees to permit [the LSA] to act as agent for both [the producer] and the Commodity Credit Corporation. [The LSA] shall disclose to [the producer] all facts which [the LSA] knows or should know would reasonably affect the judgement of [the producer] in permitting [the LSA] to act as agent for both [the producer] and the Commodity Credit Corporation"; and

- (c) submit for CCC's approval any such agency agreement entered into between the LSA and producer.

- 8. The LSA will not pool the producer's cotton for the purpose of obtaining loans or LDP's from CCC and will not pool the proceeds obtained from loans or LDP's made by CCC or make settlement of loan proceeds with producers on a pool basis.
- 9. The LSA will not adopt any scheme or device to circumvent the purpose of the applicable commodity program regulations, the regulation governing LSA's, or this agreement.
- 10. Any charge for marketing services performed by the LSA for a producer requesting CCC cotton loans or LDP's through the service provided by the LSA shall be established by the producer and the LSA prior to execution of a marketing agreement and power of attorney. Any such charge will be assessed at the same rate for all producers for which the LSA performs marketing services.
- 11. The LSA shall not discriminate against any person because of race, color, religion, sex, national origin, marital status, national origin, physical disability, mental disability, or age in conducting activities in accordance with this agreement.
- 12. The services of the LSA shall be made available to all eligible producers whether or not such producers have granted the LSA a power of attorney or have designated the LSA as the producer's agent for the purpose of:
 - (a) executing loan documents to obtain Form A cotton loans, or LDP's
 - (b) repaying such loans on behalf of the producer, or
 - (c) marketing the producer's cotton.
- 13. (a) The LSA shall furnish security to CCC in order to guarantee performance. The security shall be either:
 - (i) a certified or cashier's check payable to CCC;
 - (ii) an irrevocable commercial letter of credit in the form approved by CCC; or
 - (iii) a bond conditioned on the LSA fully discharging all of its obligations under this agreement.

The amount of the financial security shall be equal to an amount, as determined by CCC, by which the number of bales of cotton to be handled by the LSA under this Agreement multiplied by \$10 exceeds the LSA's net worth. In lieu of the foregoing, CCC may at its discretion, accept such other form of security as CCC may deem appropriate.

- (b) The LSA is liable to CCC for any losses incurred by CCC as a result of the LSA's failure to discharge all of its obligations under this agreement. Payment in the amount of such losses shall be made to CCC first, from the financial security furnished by LSA, and second, by the LSA if the amount of the loss exceeds the amount of the financial security.
- 14. The LSA shall maintain, for a period not less than six (6) years following loan closure (repayment or forfeiture) or LDP, current and complete records with respect to executed loan and LDP documents required by this agreement.
 - 15. The LSA shall permit CCC or its representatives to examine the books, loan records, papers, and accounts relating to the activities of the LSA in connection with the making and servicing of CCC cotton loans or LDP's any time during normal business hours. Examination and inspections made by CCC or by a Federal, State, or other body authorized by CCC shall, however, in no way relieve the LSA of its obligations under the terms and conditions of this agreement.
 - 16. No information collected or acquired by the LSA in its capacity as agent of CCC shall be released, supplied, or made available, without prior approval of CCC, to any person other than CCC or the person who supplied such information.
 - 17. (a) An LSA shall, upon the request of CCC or its representatives, furnish a current financial statement prepared in accordance with generally accepted accounting principles and including the items listed below:
 - (i) balance sheet;
 - (ii) income statement (profit and loss statement);
 - (iii) cash flow statement; and
 - (iv) statement of retained earnings.
 - (b) Each financial statement shall be accompanied by a report of audit or review conducted by an independent Certified Public Accountant in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's report of audit or review shall include the accountant's certifications, assurances, opinions, comments and notes with respect to such financial statements.
- 18. The LSA shall hold CCC harmless from any claim made against CCC in connection with any loan or LDP making, loan servicing, or other activity carried out by the LSA which is not in accordance with the terms and conditions of this agreement.
 - 19. (a) This agreement may be terminated by either party at any time upon 30 days notice to the other party.
 - (b) CCC may terminate this Agreement without providing 30 days notice if CCC determines that the LSA has failed to meet the terms and conditions of this Agreement.

(c) Termination of this Agreement by either party is without prejudice to any rights of a party against the other under this agreement arising from a party's failure to meet the terms and conditions of this Agreement.

(d) If the LSA sends a notice of termination to CCC or receives a notice of termination from CCC, the LSA shall immediately cease the execution of loan or LDP documents.

20. Member Delegate - Unless exemption by 41 U.S.C. 22, no member or Delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement or to any benefit arising from it. However, this provision does not apply to this agreement to the extent that this agreement is made with such persons in their capacity as producers of agricultural commodities or with a corporation for its general benefit.

IT IS FURTHER AGREED that this Agreement does not render the LSA a Federal employee. It is agreed that this Agreement will become effective upon execution by CCC and will remain in effect until terminated.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date set forth above.

COMMODITY CREDIT CORPORATION

By _____ Date:
(Signature of Contracting Officer)

By _____ Date:
(Signature of Authorized Loan Servicing Agent)